IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)
	)
Andrea MAU	) Group Art Unit: 3696
	)
Application No.: 10/619,748	) Examiner: Martin A. GOTTSCHALK
	)
Filed: July 15, 2003	) Confirmation No.: 7407
	)
For: REAL-TIME BENEFITS	)
SERVICE MARKETPLACE	)

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Pursuant to 37 C.F.R. § 41.41 and in reply to the Examiner's Answer mailed

February 21, 2008, the period for response extending through April 21, 2008, Appellant

submits this Reply Brief, which addresses the "Response to Argument" section of the

Examiner's Answer.

Arguments begin on the next page.

ARGUMENTS

Rejection of Claims 31, 32, 39, and 42 Under 35 U.S.C. § 103(a)

Appellant respectfully traverses the rejection of claims 31, 32, 39, and 42 under

35 U.S.C. § 103(a) as being unpatentable over E-Benefits Inc. website ("*E-Benefits*") in

view of U.S. Publication No. 2002/0049642 to Moderegger et al. ("*Moderegger*").

The Examiner alleges that *Moderegger* discloses "automatically receiving the

contract document . . . , wherein the contract document includes a status of at least one

of accepted, rejected, and amended," as recited in claim 31. The Examiner's allegation

is incorrect.

The Examiner points to *Moderegger*, para. [0056] as a teaching the

above-quoted element of claim 31. Examiner's Answer at 16. *Moderegger*, para.

[0056] states: "If the buyer . . . has made the bid award decision, he/she then transmits

the award decision[,] . . . informing the selected bidder that he/she has been awarded

the contract." "The Examiner considers this to be an example [of] transmitting t[he]

contract document which includes an indication of acceptance." Examiner's Answer at

16. However, nothing in *Moderegger* teaches or suggests that "the contract document

[itself] <u>includes</u> a status of . . . accepted," as required by claim 31 (emphasis added).

The Examiner makes a baseless presumption that *Moderegger's* teachings of

"transmit[ting] the award decision" and "informing the selected bidder that he/she has

been awarded the contacts" can somehow be interpreted to mean "transmitting t[he]

contact document which includes an indication of acceptance." Examiner's Answer at

16. However, there is no support for such an interpretation of *Moderegger*. Indeed,

Moderegger suggests to the contrary of the Examiner's presumption. For example, *Moderegger* discloses that the fact that a "bidder . . . has been awarded the contract . . . [can be] distributed . . . by e-mail or by . . . a notice file . . . accessible by the bidder across the network." *Moderegger*, para. [0056]. Because *Moderegger* fails to disclose that the contract document includes a status of accepted and because *Moderegger* discloses other methods of communicating the accepted status without including the status in the contract, *Moderegger* fails to disclose or suggest "automatically receiving the contract document . . . , wherein the contract document includes a status of at least one of accepted, rejected, and amended," as recited in claim 31.

Rejection of Claim 33 Under 35 U.S.C. § 103(a)

Appellant respectfully traverses the rejection of claim 33 under 35 U.S.C. § 103(a) as being unpatentable over *E-Benefits* in view of *Moderegger* and U.S. Publication No. 2002/0023212 to Proudler ("*Proudler*").

The Examiner alleges that *Proudler* discloses "if the received contract document includes the status of rejected, then automatically selecting a next best bid from the received bids based on the sorting and repeating the automatically transmitting and automatically receiving the contract document steps with the next best bid," as recited in claim 33. The Examiner's allegation is incorrect.

In the Examiner's Answer, "the Examiner notes that Proudler: [0077] teaches accepting or rejecting a contract that meets the criteria of the requestor." Examiner's Answer at 17. However, the Examiner next states: "If the contract is rejected, an iterative process is performed which amends the details of the contract so as to arrive at

an acceptable agreement. The Examiner considers this second contract to be a type of 'next best bid', which is subsequently selected as the contract." *Id.* However, there is no support in *Proudler* for this allegation.

Proudler discloses that "the trusted computing platform either accepts or rejects the contract offer." *Proudler*, para. [0077]. *Proudler* further discloses several reasons why a contract offer may be rejected. *Id.* *Proudler* continues its disclosure with an assumption that "the contract offer is accepted." *Id.*, para. [0078]. However, *Proudler* is completely silent with respect to the situation where the contract offer is rejected. Accordingly, *Proudler* does not teach "[i]f the contract is rejected, an iterative process is performed which amends the details of the contract so as to arrive at an acceptable agreement." Indeed, the Examiner has failed to cite to any specific portion of *Proudler* as a basis for this allegation.

For at least the foregoing reasons, *Proudler* fails to disclose or suggest "if the received contract document includes the status of rejected, then automatically selecting a next best bid from the received bids based on the sorting and repeating the automatically transmitting and automatically receiving the contract document steps with the next best bid," as recited in claim 33.

CONCLUSION

For at least the foregoing reasons and the reasons given in Appellant's Appeal Brief filed on September 27, 2007, Appellant respectfully requests the Board to reverse the final rejections of claims 31-58 under 35 U.S.C. § 103(a).

Please charge any required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: April 10, 2008   By: _____

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